HEARING DATE: January 7, 2014
HEARING TIME: 10:00 a.m.

MORRISON TENENBAUM PLLC
Attorneys for 11 East 36th, LLC
Debtor and Debtor-in-Possession
87 Walker Street, Floor 2
New York, NY 10013
(212) 620-0938
Lawrence F. Morrison

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: **11 EAST 36TH, LLC,** **Debtor.**	Chapter 11 Case No. 13-11506 (JMP)

NOTICE OF HEARING ON DEBTOR'S MOTION FOR AN ORDER PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 60(b)(6) MADE APPLICABLE BY RULE 9024 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE FOR RELIEF FROM THE COURT CONDITIONAL ORDER DATED NOVEMBER 6, 2013

PLEASE TAKE NOTICE that a hearing (the "Hearing") on Debtor's Motion for an order pursuant to federal rule of civil procedure 60(b)(6) made applicable by Rule 9024 of the federal rules of bankruptcy procedure for relief from the court's conditional Order of November 6, 2013 filed herewith by 11 East 36th LLC, the debtor and debtor-in-possession (the "Debtor"), will be held before the Honorable James M. Peck, at the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), 1 Bowling Green, New York, New York 10004, Room No. 601 on **January 7, 2014 at 10:00 a.m.**

PLEASE TAKE FURTHER NOTICE that responses, if any, to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy, and shall be filed with the Bankruptcy Court electronically in accordance with General Order M-399 (General Order M-399 can be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court), and shall be served in accordance with General Order M-399 and any further Order of the Bankruptcy Court upon the undersigned, with a copy delivered to Chambers, so as to be received no later than January 1, 2014. Only those responses made in writing and timely filed and received will be considered at the Hearing. Any such response must state with specificity the reason or reasons why the relief requested in the Motion should not be granted.

Dated: New York, New York
December 20, 2013

MORRISON TENENBAUM PLLC

By:________________________
Lawrence F. Morrison
87 Walker Street
New York, NY 10013
(212) 620-0938

Counsel to Debtor and Debtor-in-Possession

HEARING DATE: January 7, 2014
HEARING TIME: 10:00 a.m.

MORRISON TENENBAUM PLLC
Attorneys for 11 East 36th, LLC Debtor and Debtor-in-Possession
87 Walker Street, Floor 2
New York, NY 10013
(212) 620-0938
Lawrence F. Morrison

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

---x

In re: CHAPTER 11

CASE NO. 13-11506 (JMP)

11 EAST 36TH, LLC,

Debtor.

---x

MEMORANDUM OF LAW IN SUPPORT OF DEBTORS' MOTION FOR RELIEF UNDER FRCP 60(B)(6)

Debtors 11 East 36th LLC ("11 East") and Morgan Lofts LLC ("Morgan") (collectively, the "Debtors") respectfully submit this memorandum of law in support of its motion for relief regarding the Court's Conditional Order of November 6, 2013. Specifically, Debtors request an Order, pursuant to Federal Rule of Civil Procedure 60(b)(6), modifying the Court's Conditional Order of November 6, 2013, so that Debtors will be allowed to withdraw their Sale Motion and the automatic stay will not be lifted.

JURISDICTION, VENUE, AND STATUTORY PREDICATE

This Court has jurisdiction over this case and this motion as a core proceeding, pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 §§ 1408 and 1409. Consideration of this motion is a core proceeding pursuant to 28 U.S.C. § 157(b).

The Debtors move under Federal Rule of Civil Procedure 60(b)(6) (made applicable by Rule 9024 of the Federal Rules of Bankruptcy Procedure) for relief regarding the Court's Conditional Order of November 6, 2013.

FACTS AND PROCEDURAL BACKGROUND

On May 8, 2013 (the "Petition Date"), 11 East and Morgan Lofts LLC each commenced their respective Chapter 11 cases by filing voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). Pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code, the Debtors continue to operate as debtors-in-possession. No trustee has been appointed.

The Debtors' cases were consolidated for administrative purposes only, by order dated July 24, 2013. The cause for the filing of these cases has been detailed in the affidavit pursuant to Local Bankruptcy Rule 1007-2 filed with the original petitions, and is referred to as if fully set forth herein.

The Debtors are owners of condominium units located at 11 East 36th Street, New York, New York. The filing of these Chapter 11 cases was caused by the breach of the Debtors loan documents by its lender prior to its assignment of the note and mortgage. The Debtors' objectives in these jointly administered Chapter 11 cases is to stabilize the Debtors' finances, so that ultimately the subject properties may be refinanced or sold for the benefit of all interested parties.

The units are presently rented, and are encumbered by a blanket mortgage in the principal sum of approximately $9,836,204.14, held by 11 East 36 Note Buyer, LLC, and encumbered by a judgment held by Griffon V in the approximate principal amount of $2,889,340.95. The twenty-eight (28) units owned by the Debtors are occupied by tenants under leases.

By Conditional Order dated November 6, 2013 ("the Order"), the Honorable James M. Peck Ordered "that on or before November 12, 2013, the Debtors shall file a motion seeking to sell the property (the 'Sale Motion') under section 363 of the Bankruptcy Code; and that the Sale motion shall be noticed for approval by court on or before January 8, 2014.. ." The Order further states that

> ...in the event that the Debtors do not file the Sale Motion as required...then the Mortgage shall be entitled...to settle an order substantially in the form annexed hereto (the "Lift Stay Order")...and...the Debtors shall not be entitled to asset any objection to the entry of the Lift Stay Order...except to assert that the Debtors timely complied with its obligation to file the Sale Motion... .

A copy of the Order is annexed to the accompanying declaration of Ben Bobker as Exhibit "A".

The Order provides that:

> ...in the event that within twenty days after entry of this Order, the Debtors are able to satisfy the New York Attorney General concerning its ability to sell or refinance the Property in the ordinary course of its business and is able to obtain the consent of 11 E 36th Street Condominium Association, then the Debtors shall be entitled to withdraw the Sale Motion and to propose a resolution of these cases pursuant to a proposed plan of reorganization to be filed no later than 30 days

after entry of this order.

Exhibit "A."

On November 12, 2013, Debtors filed the required Sale Motion. A Copy of the Sale Motion is annexed to the accompanying declaration of Ben Bobker as Exhibit "B."

On November 14, 2013, the Debtors received a letter from the New York Attorney General stating that:

> …it appears that a bankruptcy petition has been filed in this instance. It is not necessary for the sponsor to file an amendment at this time as long as there are no purchasers in contact and the sponsor is not engaged in any sales activity…if sponsor emerges from bankruptcy, an update amendment must be filed prior to commencement of any sales activity.

A copy of the Attorney General's letter of November 14, 2013, is annexed to the accompanying declaration of Ben Bobker as Exhibit "C."

Since the entry of the Conditional Order, 11 E 36th Street Condominium Association (the "Condominium Association") have indicated that they are simply unwilling to entertain the "resolution of these cases pursuant to a proposed plan of reorganization" contemplated by the Order. The issue has not been a failure to come to an agreement regarding specific details of the reorganization plan; rather, the Condominium Association refuses to even consider a plan of reorganization, regardless of the fact that Debtors have satisfied the conditions specified in the Order. *See* the November 25, 2013 email from the Condominium Association's counsel to the undersigned, annexed to the accompanying declaration of Ben Bobker as Exhibit "D." The November 25, 2013 email explicitly states that "the Board of Managers is unwilling to consent to *any* plan proposed by the debtor."[1]

On or about December 2, 2012, Debtors sent the Court a letter advising of the situation – i.e., that Debtors have satisfied the Order's conditions but the Condominium Association was

[1] Emphasis provided.

nonetheless refusing to even contemplate a reorganization plan. The Debtors requested a conference with the Court to facilitate the movement forward with a plan. A copy of the letter of December 2, 2012 is annexed to the accompanying declaration of Ben Bobker as Exhibit "E."

On or about December 4, 2012, the Condominium Association's counsel sent the Court a letter confirming that the Condominium Association "would not consent to any reorganization plan submitted by the debtors." A copy of the letter of December 4, 2012 is annexed to the accompanying declaration of Ben Bobker as Exhibit "F."

ARGUMENT

MODIFYING THE CONDITIONAL ORDER PURSUANT TO FRCP 60(B)(6) SO THAT IT SPECIFIES THAT DEBTORS WILL BE ALLOWED TO WITHDRAW THEIR SALE MOTION, AND THAT THE AUTOMATIC STAY WILL NOT BE LIFTED, IS IN THE INTEREST OF JUSTICE.

Rule 60(b) of the Federal Rules of Civil Procedure ("Relief from a Judgment or Order") provides as follows:

> Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:
>
> (1) mistake, inadvertence, surprise, or excusable neglect;
>
> (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
>
> (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
>
> (4) the judgment is void;
>
> (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
>
> (6) any other reason that justifies relief.

The instant motion seeks to have the Order modified pursuant to Rule 60(b)(6), which "has been described as 'a reservoir of equitable power to do justice in a particular case when relief is not warranted by the preceding clauses.'" *Flores v. Graphtex*, 1999 U.S. Dist. LEXIS 4236, *5 (N.D.N.Y. 1999) (quoting *United States v. Cirami*, 563 F.2d 26, 32 (2d Cir. 1977)) (other citations omitted). "The rule 'provides courts with authority to enable them to vacate judgments whenever such action is appropriate to accomplish justice,' but such authority 'should only be applied in extraordinary circumstances.'" *Flores, supra*, 1999 U.S. Dist. LEXIS 4236 at *5 (quoting *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 863, 100 L.Ed.2d 855, 108 S.Ct. 2194 (1987)). Moreover, "while any Rule 60(b) motion is addressed to the sound discretion of the trial court, judicial discretion 'is especially broad under clause (6) to accomplish justice.'" *Cobos v. Adelphi Univ.*, 179 F.R.D. 381, 388 (E.D.N.Y. 1998) (quoting *Montco, Inc. v. Barr (In re Emergency Beacon Corp.)*, 666 F.2d 754, 760 (2d. Cir. 1981) (modified on other grounds, 25 B.R. 979 (S.D.N.Y. 1985)) (other citation omitted). Rule 60(b)(6) "'should be liberally construed when substantial justice will thus be served.'" *Flores, supra*, 1999 U.S. Dist. LEXIS 4236 at *6 (quoting *DeWeerth v. Baldinger,* 38 F.3d 1266, 1272 (2d Cir. 1994)) (other citations omitted). *See also Cobos, supra*, 179 F.R.D. at 388 ("Rule 60(b)(6) calls for liberal application.") (citing *Cirami, supra,* 563 F.2d at 32) (other citation omitted).

Motions pursuant to Rule 60(b)(6) have been held to be appropriate with respect to Orders allowing for the lifting of stays in bankruptcy proceedings. *In re Armenakis*, 406 B.R. 589, ftnt. 9 (S.D.N.Y. 2009). *See also Indep. Living Aids, Inc. v. Maxi-Aids, Inc.*, 303 F.Supp.2d 327 (E.D.N.Y. 2004); *In re AL & LP Realty Co.*, 164 B.R. 231 (S.D.N.Y. 1994).

Debtors submit that the instant motion presents exactly the type of situation for which FRCP 60(b)(6) was intended. The Order provides specific conditions that, if met, allow for the withdrawal of the Sale Motion and for the maintenance of the automatic stay. Debtors met these conditions – they filed a Sale Motion and obtained confirmation from the Attorney General. The Order states that Debtor should now "obtain the consent of 11 E 36th Street Condominium Association…to propose a resolution of these cases pursuant to a proposed plan of reorganization." Surely, the Court did not contemplate that if Debtors met their conditions, the Condominium Association could simply refuse to enter into a proposed plan under any circumstances, without even bothering to negotiate or to discuss terms. Such a conclusion would render the final paragraph of the Order entirely meaningless. Accordingly, it is in the interest of justice to grant the instant motion pursuant to FRCP 60(b)(6), and to modify the Court's Conditional Order of November 6, 2013 so that Debtors will be allowed to withdraw their Sale Motion and the automatic stay will not be lifted.

CONCLUSION

For the reasons stated herein pursuant to Federal Rule of Civil Procedure 60(b)(6), applicable to bankruptcy cases through Bankruptcy Rule 9024, Debtor respectfully requests that this Court modify the Court's Conditional Order of November 6, 2013 so that Debtors will be allowed to withdraw their Sale Motion and the automatic stay will not be lifted, and grant such other and further relief as this Court may deem just and equitable.

Dated: New York, New York
December 20, 2013

MORRISON TENENBAUM PLLC
/s/ Lawrence F. Morrison
Lawrence F. Morrison, Esq.
87 Walker Street, Floor 2
New York, New York 10013
(212) 620-0938

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
--x
In re: CHAPTER 11

CASE #13-11506 (JMP)

11 EAST 36TH, LLC,

Debtor
--x

DECLARATION OF BEN BOBKER

Ben Bobker, an attorney admitted to practice in the United States District Court, Southern District of New York, affirms and declares the following under the penalties of perjury:

1. I am the Managing Member of Debtors 11 East 36th LLC ("11 East") and Morgan Lofts LLC ("Morgan") (collectively, the "Debtors"), and as such am thoroughly conversant with the facts and circumstances herein. I submit this Declaration in support of Debtor's motion an Order, pursuant to Federal Rule of Civil Procedure 60(b)(6), modifying the Court's Conditional Order of November 6, 2013, so that Debtors will be allowed to withdraw their Sale Motion and the automatic stay will not be lifted.

2. On May 8, 2013 (the "Petition Date"), 11 East and Morgan Lofts LLC each commenced their respective Chapter 11 cases by filing voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). Pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code, the Debtors continue to operate as debtors-in-possession. No trustee has been appointed.

3. The Debtors' cases were consolidated for administrative purposes only, by order dated July 24, 2013. The cause for the filing of these cases has been detailed in the affidavit pursuant to Local Bankruptcy Rule 1007-2 filed with the original petitions, and is referred to as if fully set forth herein.

4. The Debtors are owners of condominium units located at 11 East 36th Street, New York, New York. The filing of these Chapter 11 cases was caused by the breach of the Debtors loan documents by its lender prior to its assignment of the note and mortgage. The Debtors' objectives in these jointly administered Chapter 11 cases is to stabilize the Debtors' finances, so that ultimately the subject properties may be refinanced or sold for the benefit of all interested parties.

5. The units are presently rented, and are encumbered by a blanket mortgage in the principal sum of approximately $9,836,204.14, held by 11 East 36 Note Buyer, LLC, and encumbered by a judgment held by Griffon V in the approximate principal amount of $2,889,340.95. The twenty-eight (28) units owned by the Debtors are occupied by tenants under leases.

6. By Conditional Order dated November 6, 2013 ("the Order"), the Honorable James M. Peck Ordered "that on or before November 12, 2013, the Debtors shall file a motion seeking to sell the property (the 'Sale Motion') under section 363 of the Bankruptcy Code; and that the Sale motion shall be noticed for approval by court on or before January 8, 2014.. ." The Order further states that

> ...in the event that the Debtors do not file the Sale Motion as required...then the Mortgage shall be entitled...to settle an order substantially in the form annexed hereto (the "Lift Stay Order")...and...the Debtors shall not be entitled to asset any objection to the entry of the Lift Stay Order...except to assert that the Debtors timely complied with its obligation to file the Sale Motion... .

A copy of the Order is annexed hereto as Exhibit "A".

7. The Order provides that:

> ...in the event that within twenty days after entry of this Order, the Debtors are able to satisfy the New York Attorney General concerning its ability to sell or refinance the Property in the ordinary course of its business and is able to obtain the consent of 11 E 36th Street Condominium Association, then the Debtors shall

> be entitled to withdraw the Sale Motion and to propose a resolution of these cases pursuant to a proposed plan of reorganization to be filed no later than 30 days after entry of this order.

Exhibit "A."

8. On November 12, 2013, Debtors filed the required Sale Motion. A Copy of the Sale Motion is annexed hereto as Exhibit "B."

9. On November 14, 2013, the Debtors received a letter from the New York Attorney General stating that:

> ...it appears that a bankruptcy petition has been filed in this instance. It is not necessary for the sponsor to file an amendment at this time as long as there are no purchasers in contact and the sponsor is not engaged in any sales activity...if sponsor emerges from bankruptcy, an update amendment must be filed prior to commencement of any sales activity.

A copy of the Attorney General's letter of November 14, 2013, is annexed hereto as Exhibit "C."

10. Since the entry of the Conditional Order, 11 E 36th Street Condominium Association (the "Condominium Association") have indicated that they are simply unwilling to entertain the "resolution of these cases pursuant to a proposed plan of reorganization" contemplated by the Order. The issue has not been a failure to come to an agreement regarding specific details of the reorganization plan; rather, the Condominium Association refuses to even consider a plan of reorganization, regardless of the fact that Debtors have satisfied the conditions specified in the Order. *See* the November 25, 2013 email from the Condominium Association's counsel to the undersigned, annexed hereto as Exhibit "D." The November 25, 2013 email explicitly states that "the Board of Managers is unwilling to consent to *any* plan proposed by the debtor."[1]

11. On or about December 2, 2012, Debtors sent the Court a letter advising of the situation – i.e., that Debtors have satisfied the Order's conditions but the Condominium

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[1] Emphasis provided.

Association was nonetheless refusing to even contemplate a reorganization plan. The Debtors requested a conference with the Court to facilitate the movement forward with a plan. A copy of the letter of December 2, 2012 is annexed hereto as Exhibit "E."

12. On or about December 4, 2012, the Condominium Association's counsel sent the Court a letter confirming that the Condominium Association "would not consent to any reorganization plan submitted by the debtors." A copy of the letter of December 4, 2012 is annexed hereto as Exhibit "F."

13. As noted in greater detail in the moving Memorandum of Law, the instant motion presents exactly the type of situation for which FRCP 60(b)(6) was intended. The Order provides specific conditions that, if met, allow for the withdrawal of the Sale Motion and for the maintenance of the automatic stay. Debtors met these conditions – they filed a Sale Motion and obtained confirmation from the Attorney General. The Order states that Debtor should now "obtain the consent of 11 E 36th Street Condominium Association…to propose a resolution of these cases pursuant to a proposed plan of reorganization."

14. Surely, the Court did not contemplate that if Debtors met their conditions, the Condominium Association could simply refuse to enter into a proposed plan under any circumstances, without even bothering to negotiate or to discuss terms. Such a conclusion would render the final paragraph of the Order entirely meaningless. Accordingly, it is in the interest of justice to grant the instant motion pursuant to FRCP 60(b)(6), and to modify the Court's Conditional Order of November 6, 2013 so that Debtors will be allowed to withdraw their Sale Motion and the automatic stay will not be lifted.

15. For the reasons stated herein pursuant to Federal Rule of Civil Procedure 60(b)(6), applicable to bankruptcy cases through Bankruptcy Rule 9024, Debtor respectfully

requests that this Court modify the Court's Conditional Order of November 6, 2013 so that Debtors will be allowed to withdraw their Sale Motion and the automatic stay will not be lifted, and grant such other and further relief as this Court may deem just and equitable.

Ben Bobker

Dated: New York, New York
December 20, 2013

EXHIBIT "A"

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

---x

In re	Chapter 11
11 East 36 LLC et al.	Case no. 13-11506-7
Debtor.	

---x

CONDITIONAL ORDER

Upon the Application of 11 East 36 Note Buyer LLC and Griffin V LLC (the "Mortgagees") for an order determining that each of the chapter 11 cases of 11 East 36th LLC and Morgan Lofts LLC (the "Debtors") is a single asset real estate case, and lifting the automatic stay to permit the Mortgagees to pursue their remedies under New York law with respect to those certain residential condominium units known as units701, 801, 803, 804, 903, 904, 1003, 1004, 1103, 1104, 201, 202, 203, 204, 205, 206, 306, 406, 606, 1206, CSI-CS35 and the 2.8% interest in the commercial units 101 and 102 and units 1001, 1006, 1101, 1203, 1204 (collectively the "Property") at 11 East 36th Street, New York, New York, and upon the hearings held before this Court on October 22 and 29, 2013, and upon the entire record of this case, and after due deliberation and sufficient cause appearing therefor, it is

ORDERED, that on or before November 12, 2013, the Debtors shall file a motion seeking to sell the Property (the "Sale Motion") under section 363 of the Bankruptcy Code, and that the Sale Motion shall be noticed for approval by the Court on or before January 8, 2014; and it is further

ORDERED, that in the event that the Debtors do not file the Sale Motion as required by the preceding paragraph, then the Mortgagee shall be entitled to file an affidavit asserting such default, and to settle an order substantially in the form annexed hereto (the "Lift

Stay Order") by hand or overnight delivery upon Debtors' bankruptcy counsel on three days' notice, and it is further

ORDERED, that the Debtors shall not be entitled to assert any objection to the entry of the Lift Stay Order pursuant to the preceding paragraph except to assert that the Debtors timely complied with its obligation to file the Sale Motion; and it is further

ORDERED, that notwithstanding anything to the contrary in this Order, in the event that within twenty days after entry of this Order, the Debtors are able to satisfy the New York Attorney General concerning its ability to sell or refinance the Property in the ordinary course of its business and is able to obtain the consent of 11 E 36th Street Condominium Association, then the Debtors shall be entitled to withdraw the Sale Motion and to propose a resolution of these cases pursuant to a proposed plan of reorganization to be filed no later than 30 days after entry of this order.

Dated: New York, New York
November 6, 2013

/s/ James M. Peck

Honorable James M. Peck
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

---x

In re

11 East 36 LLC et al.

Debtor.

---x

Chapter 11

Case no. 13-11506-7
(Jointly Administered)

ORDER LIFTING AUTOMATIC STAY

Upon the Application of 11 East 36 Note Buyer LLC and Griffin V LLC (the "Mortgagees") for an order against 11 East 36th LLC and Morgan Lofts LLC (the "Debtors") lifting the automatic stay to permit the Mortgagees to pursue their remedies under New York law with respect to those certain residential condominium units known as units701, 801, 803, 804, 903, 904, 1003, 1004, 1103, 1104, 201, 202, 203, 204, 205, 206, 306, 406, 606, 1206, CSI-CS35 and the 2.8% interest in the commercial units 101 and 102 and units 1001, 1006, 1101, 1203, 1204 (collectively the "Property") at 11 East 36th Street, New York, New York, and upon the hearings held before this Court on October 22 and 29, 2013, and the Debtors' failure to comply with the conditional order ("Conditional Order") entered by this Court on November ___, 2013, and upon the Mortgagee's affidavit filed with the Court on November ____, 2013 asserting the Debtors' default under the Conditional Order, and upon the entire record of this case, and after due deliberation and sufficient cause appearing therefor, it is

ORDERED, that the automatic stay under 11 U.S.C. § 362 be, and it hereby is, vacated to permit each of the Mortgagees to exercise all rights available to it under applicable law with respect to each of the Debtors' interests in the Property.

Dated: New York, New York
November , 2013

____
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT "B"

HEARING DATE: January 7, 2013
HEARING TIME: 10:00 a.m.

MORRISON TENENBAUM PLLC
Proposed Attorneys for 11 East 36th, LLC
Debtor and Debtor-in-Possession
87 Walker Street, Floor 2
New York, NY 10013
(212) 620-0938
Lawrence F. Morrison

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: **11 EAST 36TH, LLC,** **Debtor.**	Chapter 11 Case No. 13-11506 (JMP)

NOTICE OF HEARING ON DEBTOR'S MOTION FOR ORDERS PURSUANT TO SECTIONS 105(a) AND 363 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 6004 APPROVING BIDDING AND AUCTION PROCEDURES AND RELATED RELIEF

PLEASE TAKE NOTICE that a hearing (the "Hearing") on *Debtor's Motion for an Order Pursuant to Sections 105(a) and 363 of the Bankruptcy Code and Bankruptcy Rule 6004 Approving Bidding and Auction Procedures and Related Relief* (the "Motion) filed herewith by 11 East 36th LLC, the debtor and debtor-in-possession (the "Debtor"), will be held before the Honorable James M. Peck, at the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), 1 Bowling Green, New York, New York 10004, Room No. 601 on **January 7, 2014 at 10:00 a.m.**

PLEASE TAKE FURTHER NOTICE that responses, if any, to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy, and shall be filed with the Bankruptcy Court electronically in accordance with General Order M-399 (General Order M-399 can be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court), and shall be served in accordance with General Order M-399 and any further Order of theBankrupcy Court upon the undersigned, with a copy delivered to Chambers, so as to be received no later than December 31, 2013. Only those response made in writing and timely filed and received will be considered at the Hearing. Any such response must state with specificity the reason or reasons why the relief requested in the Motion should not be granted.

Dated: New York, New York
November 12, 2013

MORRISON TENENBAUM PLLC

By:__________________________

Lawrence F. Morrison
87 Walker Street
New York, NY 10013
(212) 620-0938

Proposed Counsel to Debtor and Debtor-in-Possession

HEARING DATE: January 7, 2013
HEARING TIME: 10:00 a.m.

MORRISON TENENBAUM PLLC
Proposed Attorneys for 11 East 36th, LLC
Debtor and Debtor-in-Possession
87 Walker Street, Floor 2
New York, NY 10013
(212) 620-0938
Lawrence F. Morrison

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: **11 EAST 36TH, LLC,** **Debtor.**	Chapter 11 Case No. 13-11506 (JMP)

DEBTOR'S MOTION FOR AN ORDER PURSUANT TO SECTIONS 105(a) AND 363 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 6004 APPROVING BIDDING AND AUCTION PROCEDURES AND RELATED RELIEF

TO: THE HONORABLE JAMES M. PECK
UNITED STATES BANKRUPTCY JUDGE

11 East LLC ("11 East" or the "Debtor"), debtor and debtor-in-possession herein, hereby moves this Court (the "Motion"): (i) for the entry of an order pursuant to 11 U.S.C. § 105(a) and 363 and Rule 6004 of the Federal Rules of Bankruptcy Procedure (a) approving bidding and auction procedures (the "Bidding Procedures") in connection with the sale (the "Sale") of certain residential condominium units known as units 701, 801, 803, 804, 903, 904, 1003, 1004, 1103, 1104, 201, 202, 203, 204, 205, 206, 306, 406, 606, 1206, CSI-CS35 and the 2.8% interest in the commercial units 101 and 102 and units 1001, 1006, 1101, 1203, 1204 (collectively the "Property") at 11 East 36th Street, New York, New York, (b) scheduling an auction and sale hearing (the "Sale Hearing"), approving the form of notice of sale and (c) granting related relief. In support of the Motion, 11 East respectfully states as follows:

JURISDICTION

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding is proper in this district and before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. §157(b)(2).

2. The statutory predicates for the relief requested herein are 11 U.S.C. §§ 105(a) and 363 and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Debtor also relies upon the amended guidelines adopted pursuant to General Order M-383.

GENERAL BACKGROUND

3. On May 8, 2013 (the "Petition Date"), 11 East and Morgan Lofts LLC ("11 East" and together with ML, the "Debtors") each commenced their respective Chapter 11 case by filing a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). Pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code, the Debtors continue to operate as debtors-in-possession. No trustee has been appointed.

4. The Debtors' cases were consolidated for administrative purposes only, by order dated July 24, 2013.

5. The cause for the filing of these cases has been detailed in the affidavit pursuant to Local Bankruptcy Rule 1007-2 filed with the original petitions, and is referred to as if fully set forth herein.

6. The Debtor, 11 East was formed on November 23, 2004 and is the owner of fifteen (15) condominium units located at 11 East 36th Street, New York, New York. Morgan Lofts LLC was formed on April 17, 2007, and is the owner of thirteen (13) condominium units located at 11 East 36th Street, New York, New York.

7. The filing of these Chapter 11 cases was caused by the downturn in the real estate market which inhibited the Debtor's ability to keep up with the real estate taxes. The Debtors' objectives in these jointly administered Chapter 11 cases is to stabilize the Debtors' finances, so that ultimately the subject properties could be refinanced or sold for the benefit of all interested parties.

8. The units are presented rented. The units are encumbered by a blanket mortgage in the principal sum of approximately $9,836,204.14, held by 11 East 36 Note Buyer, LLC, and encumbered by a judgment held by Griffon V in the approximate principal amount of $2,889,340.95.

9. The building within which the relevant units are located is known as The Morgan Lofts Condominiums and is a 12 story building located in the Murray Hill section of Manhattan. The building was purchased in 2004 and developed into a premier condo conversion. The residential apartments owned by the Debtors offer privacy, comfort and luxury and were designed by renowned interior designed Andres Escobar. The units are carefully crafted loft homes, some with private elevator entrances and Empire State Building views. Among the many amenities are 24 hour doorman and rooftop workout facility.

10. The twenty-eight (28) units owned by the Debtors, are occupied by tenants under leases.

11. By Conditional Order dated November 6, 2013, the Honorable James M. Peck Ordered "that on or before November 12, 2013, the Debtors shall file a motion seeking to sell the property (the "Sale Motion") under section 363 of the Bankruptcy Code; and that the Sale motion shall be noticed for approval by court on or before January 8, 2014. A copy of this Order

is annexed as Exhibit "A". It is respectfully submitted that the filing of this motion complies with the language of this Order.

RELIEF REQUESTED

12. By this Motion, 11 East requests an order (i) approving the Bidding and Auction Procedures annexed as Exhibit "B" and (ii) scheduling an Auction and Sale Hearing with respect to the Sale and approving the form of notice of sale.

BASES FOR REQUESTED RELIEF

13. Bankruptcy Code § 363(b)(1) provides: "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Section 105(a) of the Bankruptcy Code provides in relevant part: "[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). The Debtor has filed the motion pursuant to court order, which is annexed as Exhibit "A".

14. The Debtor wishes to proceed by bidding and auction. Bidding incentives encourage a potential purchaser to invest the requisite time, money and effort to negotiate with a debtor and perform the necessary due diligence attendant to the acquisition of a debtor's assets, despite the inherent risks and uncertainties of the chapter 11 process. Historically, bankruptcy courts have approved bidding incentives similar to the Bidding and Auction Procedures under the "business judgment rule," which proscribes judicial second-guessing of theactions of an entity's board taken in good faith and in the exercise of honest judgment. See In re Marrose Corp., Case Nos. 89-B-12171 (CB) to 89-B-12179 (CB), 1992 WL 33848, at *5 (Bankr. S.D.N.Y. Feb. 15, 1992) Further, bidding and auction procedures require a minimum bid on

which other bidders can rely, thereby increasing the likelihood of a higher and better offer for the Premises.

15. In sum, 11 East's ability to offer the Bidding and Auction Procedures enables it to ensure the sale of the Premises to a contractually-committed bidder at a price it believes to be fair while, at the same time, providing it with the potential of even greater benefit to the estate. Thus, the Bidding and Auction Procedures should be approved.

NO PRIOR REQUEST

16. No previous request for the relief sought herein has been made to this or any other Court.

NOTICE

17. 11 East proposes to serve a copy of the Motion and all exhibits by first class mail upon (i) the Office of the United States Trustee for the Southern District of New York; (ii) all known creditors; and (iii) all other parties that have filed a notice of appearance and demand for service of papers in this bankruptcy case under Bankruptcy Rule 2002.

CONCLUSION

WHEREFORE, 11 East respectfully requests that this Court enter an Order approving the bidding and auction procedures and scheduling an auction and sale hearing. 11 East further requests that this Court grant such other and further relief as is just and proper.

Dated: New York, New York
November 12, 2013

MORRISON TENENBAUM PLLC

By: ______________________
Lawrence F. Morrison

87 Walker Street
New York, NY 10013
(212) 620-0938

Proposed Counsel to Debtor and Debtor-in-Possession

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

---x

In re

11 East 36 LLC et al.

Debtor.

---x

Chapter 11

Case no. 13-11506-7

CONDITIONAL ORDER

Upon the Application of 11 East 36 Note Buyer LLC and Griffin V LLC (the "Mortgagees") for an order determining that each of the chapter 11 cases of 11 East 36th LLC and Morgan Lofts LLC (the "Debtors") is a single asset real estate case, and lifting the automatic stay to permit the Mortgagees to pursue their remedies under New York law with respect to those certain residential condominium units known as units701, 801, 803, 804, 903, 904, 1003, 1004, 1103, 1104, 201, 202, 203, 204, 205, 206, 306, 406, 606, 1206, CSI-CS35 and the 2.8% interest in the commercial units 101 and 102 and units 1001, 1006, 1101, 1203, 1204 (collectively the "Property") at 11 East 36th Street, New York, New York, and upon the hearings held before this Court on October 22 and 29, 2013, and upon the entire record of this case, and after due deliberation and sufficient cause appearing therefor, it is

ORDERED, that on or before November 12, 2013, the Debtors shall file a motion seeking to sell the Property (the "Sale Motion") under section 363 of the Bankruptcy Code, and that the Sale Motion shall be noticed for approval by the Court on or before January 8, 2014; and it is further

ORDERED, that in the event that the Debtors do not file the Sale Motion as required by the preceding paragraph, then the Mortgagee shall be entitled to file an affidavit asserting such default, and to settle an order substantially in the form annexed hereto (the "Lift

Stay Order") by hand or overnight delivery upon Debtors' bankruptcy counsel on three days' notice, and it is further

ORDERED, that the Debtors shall not be entitled to assert any objection to the entry of the Lift Stay Order pursuant to the preceding paragraph except to assert that the Debtors timely complied with its obligation to file the Sale Motion; and it is further

ORDERED, that notwithstanding anything to the contrary in this Order, in the event that within twenty days after entry of this Order, the Debtors are able to satisfy the New York Attorney General concerning its ability to sell or refinance the Property in the ordinary course of its business and is able to obtain the consent of 11 E 36th Street Condominium Association, then the Debtors shall be entitled to withdraw the Sale Motion and to propose a resolution of these cases pursuant to a proposed plan of reorganization to be filed no later than 30 days after entry of this order.

Dated: New York, New York
November 6, 2013

/s/ James M. Peck

Honorable James M. Peck
United States Bankruptcy Judge

EXHIBIT B

EXHIBIT B

BIDDING AND AUCTION PROCEDURES

These Terms and Conditions of Sale are promulgated in connection with the auction sale (the "Sale") of that certain residential condominium units known as units 701, 801, 803, 804, 903, 904, 1003, 1004, 1103, 1104, 201, 202, 203, 204, 205, 206, 306, 406, 606, 1206, CSI-CS35 and the 2.8% interest in the commercial units 101 and 102 and units 1001, 1006, 1101, 1203, 1204 (collectively the "Property") at 11 East 36th Street, New York, New York.

Time and Place of Sale: The Sale will be held on ______________________, 2013 at ____ __ m. at the offices of Morrison Tenenbaum PLLC, 87 Walker Street, Floor 2, New York, New York 10013.

Sale free and Clear of Liens: The Sale of the Property shall be conducted pursuant to court Order procedures Order free and clear of liens, claims, , and encumbrances, with any such liens, claims and encumbrances to attach to the sale proceeds.

Qualification to Bid: In order to be qualified to bid on the Property, within seven days prior to the commencement of the Sale, each prospective bidder (except the Proponent's nominee) must deliver to the Proponent (a) a bank check in the amount of ______________________ ($______________) (the "Qualifying Deposit") payable to "Morrison Tenenbaum, PLLC, as Attorneys" (b) evidence reasonably demonstrating such bidder's ability to consummate a sale on the terms proposed, and (c) a written offer to purchase substantially in the form annexed hereto. No later than one business day before the Sale, each bidder will be notified by the Proponent as to whether the Proponent deems such bidder qualified to bid at the Sale.

Bidding: Bidding shall be conducted openly at the Sale. The opening bid shall be $__________________. Minimum bidding increments shall be $25,000. Proponent may credit bid its full claim.

Successful Bidder Additional Deposit: At the Sale, once a bidder is determined to have made the highest or best bid for the Property at the sale (the "Successful Bidder"), bidding shall be deemed closed and no additional bids will be considered. Within one business day after the Successful Bidder is determined, the Successful Bidder (except for the Proponent's nominee) shall be required to increase the Qualifying Deposit to an amount equal to ten percent of the winning bid, which amount shall serve as a good faith deposit against payment of the purchase price. At the conclusion of the Sale, the Proponent's counsel will return the Qualifying Deposits to all other bidders.

Hearing if Disputed Sale: In the event that an issue exists as to which competing bid is higher or better, a hearing will be conducted by the Bankruptcy Court on that issue on the ___ day of January , 2014 at ______________, at the United States Bankruptcy Court, One Bowling Green, New York, New York 10004.

Bidding Procedures Order: the Bidding Procedures Order shall approve the Sale, and this Order shall contain the following findings of fact and conclusions of law: (a) that the terms and conditions of the sale are fair and reasonable, (b) that the sale and the purchaser's purchase, of the Property is non-collusive, fair and reasonable and was conducted openly and in good faith, (c) that the transfer of the Property to the purchaser represents an arm's-length transaction and was negotiated in good faith between the parties, (d) that the purchaser, as transferee of the Property, is a good faith purchaser under Bankruptcy Code § 363(m) and, as such, is entitled to the full protection of Bankruptcy Code § 363(m), (e) the sale of the Property to the purchaser was not controlled by an agreement among potential purchasers, (f) that no cause of action exists against the Purchaser or with respect to the sale of the Property to the purchaser under Bankruptcy Code § 363(n), and (g) that any claims under Bankruptcy Code § 363(n) or any other claims as against the Purchaser are hereby released, waived and discharged.

Closing: The Successful Bidder must pay the balance of the Purchase Price for the Property (the difference between the amount of the successful bid and the Qualifying Deposit) to the Proponent, by bank check, or wire transfer at the closing of title to the Property (the "Closing"). The Successful Bidder must close title to the Property at a date that is no more than fifteen (15) days after the Order by the Bankruptcy Court approving the Sale becomes final and non-appealable, TIME BEING OF THE ESSENCE as to the Successful Bidder, although such date may be extended solely by the Proponent.

Damages for Failure to Close: Time is of the Essence as Against the Successful Bidder and the failure of the Successful Bidder to either timely pay the additional Qualifying Deposit or timely close for any reason whatsoever (except as otherwise provided below) including its failure to pay the balance of the Purchase Price on the Closing Date, will result in the Proponent retaining the deposit as liquidated damages and the termination of the Successful Bidder's right to acquire the Property under these Terms and Conditions of Sale. The Successful Bidder shall be obligated to close title to the Property and there is no contingency of any kind or nature that will permit the Successful Bidder to cancel or avoid its obligation under these Terms and Conditions of Sale other than the Debtor's inability to deliver a quit claim deed to the Property. Expenses incurred by the Successful Bidder, or any competing bidder relating to any due diligence, such as obtaining title reports or environmental inspections, shall be the sole responsibility of such bidder, and under no circumstances shall the Debtor or the Debtor's's professionals be responsible for, or pay, such expenses.

Backup Bidder: In the event that the Successful Bidder for the Property fails to tender the payment of the balance of the Purchase Price on the Closing Date, or otherwise perform any of its obligations under these terms and conditions of sale, the Proponent, at its sole option, shall be authorized to sell the Property to the Second Highest Bidder without any further notice without giving credit for the Deposit forfeited by the Successful Bidder, and upon such other terms and conditions as the Debtor deems appropriate. Should the Second Highest Bidder fail to close on the Property, within such time as the parties may agree but not to exceed thirty (30) days after notice from the Debtor to the Second Highest Bidder, the Debtor shall be authorized to sell the Property to the next highest or best bidder, without the necessity of any further notice. All bidders will be bound by these Terms and Conditions of Sale, including, without limitation, those items set forth in the paragraphs above, except that the Second Highest Bidder must close within thirty (30) days of notification that his bid is accepted. TIME IS OF THE ESSENCE.

No Representations: The Debtor, and the Debtor's professionals have not made and do not make any representations as to the physical condition, rents, leases, expenses, operations, value of the land or buildings thereon, or any other matter or thing affecting or related to the Property or the Sale, which might be pertinent to the purchase of the Property, including, without limitation, (i) the current or future real estate tax liability, assessment or valuation of the Property; (ii) the potential qualification of the Property for any and all benefits conferred by or available under federal, state or municipal laws, whether for subsidies, special real estate tax treatment, insurance, mortgages, or any other benefits, whether similar or dissimilar to those enumerated; (iii) the compliance or non-compliance of the Property, in its current or any future state, with applicable present or future zoning ordinances or other land use law or regulation, or the ability to obtain a change in the zoning or use, or a variance in respect to the Property; (iv) the availability of any financing for the purchase, alteration, rehabilitation or operation of the Property from any source, including, but not limited to, any state, city or federal government or institutional lender; (v) the current or future use of the Property; (vi) the present and future condition and operating state of any and all machinery or equipment on the Property and the present or future structural and physical condition of any building thereon or its suitability for rehabilitation or renovation; (vii) the ownership or state of title of any personal property on the Property; (viii) the presence or absence of any laws, ordinances, rule or regulations issued by any governmental authority, agency or board and any violations thereof; (ix) any present or future issues concerning subdivision or non-subdivision of the Property; or (x) the compliance or non-compliance with environmental laws and the presence or absence of underground fuel storage tanks, any asbestos or other hazardous materials anywhere on the Property. Each bidder shall be deemed to have agreed and acknowledged that no such representations have been made. The Debtor is not liable or bound in any manner by expressed or implied warranties, guaranties, promises, statements, representations or information pertaining to the Property, made or furnished by the Debtor or any real estate broker agent, employee, servant or other person or professional representing or purporting to represent the Debtor unless such warranties, guaranties, promises, statements, representations or information are expressly and specifically set forth in writing by the Debtor. For the avoidance of doubt, neither the Debtor nor the Debtor's professionals are authorized to provide any such warranties, guaranties, promises, statements, representations or information.

As Is Sale: The Property is being sold free and clear of all liens claims and encumbrances, with any such liens, claims and encumbrances to attach to the net proceeds of sale after deduction of any expenses of sale. Furthermore, the Property is being sold "AS IS", "WHERE IS" "WITH ALL FAULTS", without any representations, covenants, guarantees or warranties of any kind or nature whatsoever and subject to, among other things, (a) any state of facts that an accurate survey may show; (b) any covenants, restrictions and easements of record; (c) any state of facts a physical inspection may show; (d) any building or zoning ordinances or other applicable municipal regulations and violations thereof; and (e) environmental conditions. By delivering their respective Qualifying Deposits, each bidder is deemed to have acknowledged that it has had the opportunity to review and inspect the Property, the state of title thereof and laws, rules and regulations applicable thereto, and will rely solely thereon and on its own independent investigations and inspections of the Property in making its bid. Neither the Debtor nor any of its representatives make any representations or warrantees with respect to the permissible uses of the Property, including but not limited to, the zoning of the Property. All bidders are deemed to have acknowledged that they have conducted their own due diligence in connection with the Property, and are not relying on any information provided by the Debtor, Debtor or their professionals.

Deed: the Debtor, or the Debtor acting on the Debtor's behalf, shall convey the Property by delivery of a quit claim deed.

Broker: Neither the Debtor nor the Debtor nor their professionals are liable or responsible for the payment of fees of any broker.

Conduct of Sale: these Terms and Conditions of Sale will be read into the record, or specifically incorporated by reference, at the Sale of the Property. By making a bid for the Property, all bidders will be required to acknowledge these Terms and Conditions of Sale and agree to be bound by them.

Failure to Close: If the Debtor, or the Debtor on the Debtor's behalf, is unable to deliver title to the Property in accordance with these Terms and Conditions of Sale for any reason whatsoever or in the event that the Bankruptcy Court refuses to confirm the Debtor's Chapter 11 plan or approve the sale of the Property pursuant to Section 363 of the Bankruptcy Code, the Debtor's only obligation will be to refund the Deposit, together with interest earned thereon, if any, to the Successful Bidder, and upon such refund, the Successful Bidder will have no claim or recourse against the Debtor, the Debtor or their professionals.

Right to Withdraw Sale: the Debtor reserves its right to withdraw the Property from the Sale, either prior or subsequent to the Sale, for any reasonable reason, as the Debtor deems necessary or appropriate.

Plan Confirmation: The Sale of the Property is subject to confirmation of the Debtors' Plan and approval by the Bankruptcy Court.

Breakup Fee: None

Debtor's Designee: Notwithstanding anything to the contrary herein, the Debtor shall be entitled to name a designee or designees who shall be deemed qualified to bid without posting a Qualifying Deposit or complying with the other requirements otherwise necessary to bid, and, if the successful bidder and Purchaser, shall be entitled to purchase the Property subject to some or all of the Debtor's mortgage.

Bankruptcy Court Jurisdiction: The Bankruptcy Court shall determine any disputes concerning the Sale of the Property. By participating in the Sale, all bidders consent to the jurisdiction of the Bankruptcy Court to determine such disputes under the Debtors' pending case.

PROPOSED CONRACT OF SALE

CONTRACT dated as of the ____ day of ______________, 2013, between 11 East 36th, LLC LLC, (the "Seller" or "Debtor") and ______________________ having an address at ______________________________________ ("Purchaser").

Seller and Purchaser hereby covenant and agree as follows:

1. Sale of Premises

Paragraph 1.01. Seller shall sell or cause to be sold to Purchaser, and Purchaser shall purchase, at the price and upon the terms and conditions set forth in this contract: certain residential condominium units known as units 701, 801, 803, 804, 903, 904, 1003, 1004, 1103, 1104, 201, 202, 203, 204, 205, 206, 306, 406, 606, 1206, CSI-CS35 and the 2.8% interest in the commercial units 101 and 102 and units 1001, 1006, 1101, 1203, 1204 (collectively the "Property") at 11 East 36th Street, New York, New York..

Paragraph 1.02. Purchaser acknowledges that the Sale shall be conducted pursuant to an Order of the United States Bankruptcy Court for the Southern District of New York (hereinafter the "Bankruptcy Court") in Case No. 13-11506, entitled "Bidding and Auction Procedures" (hereinafter the "Bidding Procedures") which was approved by the Bankruptcy Court on ______________________ and is annexed to this contract.

Paragraph 1.03. Purchaser acknowledges that this sale is subject to and governed by (1) the Orders of the Bankruptcy Court, (2) the provisions of the United States Bankruptcy Code (hereinafter the "Code"), (3) the laws of the State of New York, to the extent they do not conflict with (1) and (2), above, and (3) the Bidding and Auction Procedures approved pursuant to the motion of 11 East 36th LLC (the "Debtor")

2. Purchase Price, Acceptable Funds

Paragraph 2.01. The purchase price ("Purchase Price") to be paid by Purchaser to Seller for the Premises is (   ) Dollars or such other bid by the Purchaser approved by the Bankruptcy Court, payable as follows:

(A) on the signing of this contract, by Purchaser's check payable to the Escrowee (as hereinafter defined), subject to collection, the receipt of which is hereby acknowledged, to be held in escrow pursuant to Bidding Procedures as defined in Article 3 hereof (the "Down Payment").

(B) THIS CONTRACT IS NOT SUBJECT TO ANY MORTGAGE CONTINGENCY.

(C) The balance at Closing (as hereinafter defined) in accordance with Section 2.02 hereof (the "Cash Balance")

Paragraph 2.02. All monies payable under this contract, unless otherwise specified herein, shall be paid by (a) certified checks of Purchaser drawn on any bank, savings bank, trust company or savings and loan association having a banking office in the City of New York or (b) official bank checks drawn by any such banking institution, payable to the order of Seller (as

Seller shall direct) and bearing no endorsements, except that Attorney's Escrow Checks of Purchaser payable to the order of Seller (or as Seller directs) up to the amount of $1,000.00 shall be acceptable for sums other than the Purchase Price payable to Seller at Closing or (c) by wire transmission.

3. Escrow of Down Payment

Paragraph 3.01. (a) The Down Payment shall be paid by check or checks drawn to the order of and delivered to Morrison Tenenbaum PLLC ("Escrowee"). The Escrowee shall hold the Down Payment in escrow in a non-interest bearing IOLA Account until the Closing or sooner termination of this Contract and shall pay over or apply the Down Payment in accordance with the terms of this section. At the Closing, the Down Payment shall be paid by Escrowee in accordance with Bidding Procedures. If for any reason the Closing does not occur and either party makes a written demand upon Escrowee for payment of such amount, Escrowee shall give written notice to the other party of such demand. If Escrowee does not receive a written objection from the other party to the proposed payment within 10 business days after the giving of such notice, Escrowee is hereby authorized to make such payment. If Escrowee does receive such written objection within such 10 day period or if for any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by written instructions from the parties to this Contractor an order of the Bankruptcy Court. However, Escrowee shall have the right at any time to deposit the escrowed proceeds and interest, if any, thereon, with the clerk of the Court of the Supreme Court, New York County. Escrowee shall give written notice of such deposit to Seller and Purchaser. Upon such deposit Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

(b) The parties acknowledge that Escrowee is acting solely as a stakeholder at their request and for their convenience, that Escrowee shall not be deemed to be the agent of either of the parties, and that Escrowee shall not be liable to either of the parties for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of this Contract or involving gross negligence. Seller and Purchaser shall jointly and severally indemnify and hold Escrowee harmless from and against all costs, claims and expenses, including reasonable attorneys' fees, incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions or omissions taken or suffered by Escrowee in bad faith, in willful disregard of this Contractor involving gross negligence on the part of the Escrowee.

(c) Escrowee or any member of its firm shall be permitted to act as counsel for 11 East 36 th LLC r LLC (the "Debtor"") in any dispute as to the disbursement of the Down Payment or any other dispute between the parties whether or not Escrowee is in possession of the Down Payment and continues to act as Escrowee.

(d) Escrowee acknowledges receipt of the Down Payment by certified, bank check subject to collection or wire transmission and Escrowee's agreement to these provisions by signing in the place indicated on the signature page of this contact.

4. The Closing

Paragraph 4.01. The conveyance of title to the Premises by the Seller to Purchaser, and payment of the Balance by Purchaser to the Seller or as Seller directs shall take place 15 days following the entry of an Order approving the transaction (the "Closing"), whichever is later. Said Closing is to be held at the office of the Escrowee.

5. Acknowledgments of Purchaser

Purchaser acknowledges that:

Paragraph 5.01. Purchaser has inspected the Premises, made all appropriate inquiries into the previous ownership and uses of the Premises, is fully familiar with the physical condition and state of repair thereof, and shall accept the Premises "as is" and in their present condition, including the environmental conditions as reflected in the Terms of Sale annexed hereto, without any reduction of the Purchase Price for any change in such condition by any reason thereof subsequent to the date of this contract. The Terms of Sale set forth conditions which Purchaser agrees to accept, including any covenant, easement, and/or deed restriction, and any other future obligation relating thereto.

Paragraph 5.02. Before entering into this contract, Purchaser has made such examination of the Premises, the physical condition and state of repair thereof including the environmental conditions. In entering into this contract, Purchaser has not been induced by and has not relied upon any representations, warranties, or statements, whether express or implied, made by Seller or any agent, employee, or other representative of Seller or by any other person representing or purporting to represent Seller or Debtor, which are not expressly set forth in this contract, whether or not any such representations, warranties or statements were made in writing or orally.

Paragraph 5.03. In the event of any default by the Purchaser in the terms of this agreement, the damages which are due to the Seller, by reason of said default, shall be deemed liquidated in the sum of money deposited upon the signing of this Contract as the Down Payment this day as hereinabove set forth, as Seller's sole remedy, it being agreed that Seller's damages in case of such default might be impossible to ascertain and that the Down Payment constitutes a fair and reasonable amount of damages under the circumstances and is not a penalty.

6. Destruction, Damage or Condemnation

Paragraph 6.01. The provisions of Section 5-1311 of the General Obligations Law shall not apply to the sale and purchase provided for in this contract.

7. Seller's Closing Obligations

At the closing, Seller shall execute and/or deliver or cause to be executed and/or delivered to Purchaser the following:

Paragraph 7.01. A quit claim deed, executed by the Debtor, r, in proper form for recording so as to convey to Purchaser the fee title to the Premises, including recorded encumbrances as required by this Contract.

Paragraph 7.02. All required real property gains tax forms, questionnaires, and affidavits and New York State transfer tax returns executed by the Debtor, , to be issued at the Closing and delivered to the representative of Purchaser's title company for delivery to the appropriate public officers promptly after the Closing.

Paragraph 7.03. The right to possession of the Premises in condition required by this contract, subject to the provisions hereinabove and to the provisions of the Code and the laws of the State of New York governing the rights to possession upon the conveyance of the deed subject to any Order of the Bankruptcy Court and the Bidding Procedures. Seller shall not be obligated to bring any motion or proceeding for the purpose of obtaining possession of any part of the Premises, or to remove any tenant or occupant therefrom after delivery of the Deed.

Paragraph 7.04. Any other documents required by this Contract or by law to be delivered by Seller to consummate this transaction.

8. Purchaser's Closing Obligations

At the Closing, Purchaser shall execute and/or deliver:

Paragraph 8.01. To the Mortgagee monies as defined above in payment of the Cash Balance.

Paragraph 8.02. All required real property gains tax forms, questionnaires, and affidavits, and New York State transfer tax returns, and cause all such returns to be issued at the Closing and delivered to the representative of Purchaser's title company for delivery to the appropriate public officers promptly after the closing. Purchaser will pay all applicable transfer taxes and recording fees.

Paragraph 8.03. Any other documents required by this Contract or by law or reasonably required by seller to be executed and/or delivered by Purchaser to consummate this transaction.

9. Apportionments

Paragraph 9.01. The parties specifically acknowledge that there shall be no apportionments made as of the date of closing, whether for taxes, water or sewer charges, emergency repair liens, assessments, rents, fuel, or any other matters relating hereto.

10. Objections to Sale

Paragraph 10.01. This Contract shall automatically terminate if the Court rejects the Sale or if Seller shall be unable to cause title to the Premises to be conveyed to Purchaser at the

Closing Date or any adjournments thereof in accordance with the provisions of this Contract and the Bidding Procedures. Purchaser nevertheless may elect either (i) to accept such title as Seller may be able to have conveyed, but without any abatement of or other credit to the Purchase Price or liability on the part of Seller or (ii) to terminate this contract. The sole liability of Seller shall be to refund the Down Payment and interest thereon, if any, to the Purchaser and this Contract shall be null and void and the parties hereto shall be relieved of all further obligations and liability. Seller and Mortgagee shall not be required to bring any action or proceeding or to incur any expense to cure any title defect or to enable Seller otherwise to comply with the provisions of this contract, except as may otherwise be provided in this Contract.

Paragraph 10.02. Purchaser shall take title to the subject Premises "as is" and subject to: any state of facts an accurate survey may show; encroachments, covenants, easements, and restrictions of record, if any; violations, fines, penalties, zoning regulations, and ordinances of the Village, Town, County, State, or other district in which said Premises lie. Purchaser is aware of and agrees to the Terms of Sale which are attached to this Contract and required hereunder.

11. Notices

Paragraph 11.01. All notices under this Contract shall be in writing and shall be delivered personally, by nationally recognized overnight courier, addressed to Debtor's Attorney, on behalf of the Seller, at the address set forth below, and to Purchaser addressed to Purchaser's Attorney at the address set forth below.

Debtor's attorneys, Backenroth, Morrison Tenenbaum PLLC, 87 Walker Street, Floor 2, New York, New York 10013

Purchaser's Attorney:

12. Limitations on Survival of Representations, Warranties, Covenants and other Obligations

Paragraph 12.01. Except as otherwise expressly set forth in this contract, no representations, warranties, covenants or other obligations of Debtor and/or Purchaser set forth herein shall survive the Closing except as specifically provided to survive, and no action based thereon shall be commenced after the Closing except as to such representations specifically provided to survive.

Paragraph 12.02. The delivery of the deed by the Seller and the acceptance thereof by Purchaser shall be deemed the full performance and discharge of every obligation on the part of Seller to be performed hereunder, except those obligations, if any, of Seller which are expressly stated in this Contract to survive.

13. Assignment of Contract

Paragraph 13.01. Purchaser shall not assign this Contract or its rights hereunder without the prior written consent of the Debtor, and any purported assignment without such consent shall be void. Nevertheless, an assignment of Purchaser's rights under this contract, if and when consented to, shall not be effective unless and until an executed counterpart of the instrument of assignment and of an assumption agreement by the assignee shall have been delivered to Debtor and Purchaser and such assignee shall have complied in a timely manner with the requirements of Art. 31-B of the New York Tax Law (the "Gains Tax Laws) applicable to the assignment transaction.

Paragraph 13.02. Seller shall assign pending tax certiorari actions, if any, to Purchaser without any representations or warranties, and without any further obligation of Seller, except to execute such documents as may be necessary to effectuate such assignment.

14. Miscellaneous Provisions

Paragraph 14.01 THE PROVISIONS OF THE BIDDING PROCEDURES AND THE ORDERS OF THE COURT ARE A PART OF THIS CONTRACT. ANY CONFLICT WITH SUCH IN THIS CONTRACT WILL NOT BE DEEMED TO AMEND OR ALTER SAID PROCEDURES OR ORDERS.

Paragraph 14.02. Subject to the provisions of Paragraph 14.01, this Contract embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated hereby, and all prior agreements, understandings, representations and statements, oral or written, are merged into this contract. Neither this Contract nor any provision hereof may be waived, modified, amended, discharged, or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge, or termination is sought, and then only to the extent set forth in such instrument.

Paragraph 14.03. This Contract shall be governed by, and construed in accordance with, the Code and the Orders of the Bankruptcy Court and, where it does not conflict with the Code or any Order of the Bankruptcy Court or the Bidding Procedures, the laws of the State of New York.

Paragraph 14.04. The captions in this Contract are inserted for convenience or reference only and in no way define, describe, or limit the scope or intent of this Contractor any of the provisions hereof.

Paragraph 14.05. This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns.

Paragraph 14.06. This Contract shall not be binding or effective until properly executed and delivered by Seller and Purchaser, together with all amounts required to be paid pursuant to 2.0l(A) hereto.

Paragraph 14.07. As used in this contract, the masculine shall include the feminine and neuter, the singular shall include the plural, and the plural shall include the singular, as the context may require.

Paragraph 14.08. Subject to Paragraph 14.01, if the provisions of any schedule or rider to this Contract are inconsistent with the provisions of this contract, the provisions of such schedule or rider shall prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date first above written.

Seller:

By:

Purchaser:

By:

PROPOSED NOTICE OF SALE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
---x

In re

11 East 36th LLC et al

Debtors.
---x

Chapter 11

Case No. 13-111506(JMP)

NOTICE OF SALE

PLEASE TAKE NOTICE, that upon the application of 11 East 36th, LLC ("Debtor"), the Debtor's interest in : certain residential condominium units known as units 701, 801, 803, 804, 903, 904, 1003, 1004, 1103, 1104, 201, 202, 203, 204, 205, 206, 306, 406, 606, 1206, CSI-CS35 and the 2.8% interest in the commercial units 101 and 102 and units 1001, 1006, 1101, 1203, 1204 (collectively the "Property") at 11 East 36th Street, New York, New York..
, shall be sold to the highest bidder at an auction sale to be conducted on __________, 2013 at ______________ at the offices of Morrison Tenenbaum , PLLC , 87 Walker Street, New York, New York 10013. The Property shall be sold "as is." Bidding shall be limited to all cash offers, and the minimum opening bid shall be $______________, and bidding shall be increments of $25,000. All prospective bidders except Proponent or its designee shall be required to deposit $______________ (the "Deposit") in escrow with the undersigned counsel by bank check or wire deposit on or before ___________, 2013 at 5:00 p.m. Subject to the approval of the Bankruptcy Court at a hearing ("Hearing") to be held on ___________________ at _______ __.m., or as soon thereafter as counsel can be heard, before the Honorable James M. Peck, the highest bidder shall be the purchaser (the "Purchaser") of the Property, free and clear of all liens, claims and encumbrances, with any such liens, claims and encumbrances to attach to the proceeds of sale. The Deposit shall be non-refundable. In the event the Purchaser closes on or before forty-five days after the entry of an order approving the sale, the Deposit shall be applied to the purchase price. In the event Purchaser fails to close on or before fifteen days after the entry of an order approving the sale, the Deposit shall be remitted to the Proponent. Time shall be of the essence in the closing of this transaction. In the event Purchaser fails to close as set forth herein, then the Proponent shall have the right to accept the bid next highest in amount to the original Purchaser's bid.

Dated: New York, New York
______________, 2013

MORRISON TENENBAUM PLLC
87 Walker Street Floor 2
New York, New York 10013
(212) 620-0938

EXHIBIT "C"

/14/2013 06:40 FAX 001/001

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
REAL ESTATE FINANCE BUREAU

November 14, 2013

David Berkey, Esq.
Gallet Dreyer & Berkey LLP
845 Third Avenue; 8th floor
New York, New York 10022

Dear Mr. Berkey:

You have requested a letter advising you whether or not a sponsor or holder of unsold shares has to file an update amendment to an offering plan as a condition of financing or refinancing its unsold shares.

Pursuant to our phone conversation, it appears that a bankruptcy petition has been filed in this instance. It is not necessary for the sponsor to file an amendment at this time as long as there are no purchasers in contract and the sponsor is not engaged in any sales activity. You have represented to me that this is the case. However, if sponsor emerges from bankruptcy, an update amendment must be filed prior to commencement of any sales activity

Very truly yours,

Marissa Piesman
Special Counsel
Real Estate Finance Bureau

EXHIBIT "D"

Joshua Losardo

From: Joshua Losardo
Sent: Monday, November 25, 2013 5:54 PM
To: lmorrison@m-t-law.com
Subject: 11 East 36

Larry – I spoke with the Board after our conversation today, and can convey at this time that the Board of Managers is unwilling to consent to any plan proposed by the debtor.
I will be back from vacation next Wednesday. Have a happy Thanksgiving holiday,

Josh

Joshua G. Losardo
Belkin Burden Wenig & Goldman, LLP
270 Madison Avenue
New York, New York 10016
www.bbwg.com
Tel: (212) 867-4466 x337
Fax: (212) 867-0709
Fax: (212) 297-1859

EXHIBIT "E"

MORRISON TENENBAUM

MORRISON-TENENBAUM, PLLC, ATTORNEYS-AT-LAW M-T-LAW.COM
87 WALKER STREET 2ND FLOOR NEW YORK NY 10013
PHONE 212.620.0938 FAX 646.998.1972

December 2, 2013

Via Hand Delivery
Hon. James M. Peck
US Bankruptcy Court – SDNY
One Bowling Green, Courtroom 601
New York, New York 10004

RE: 13-11506, Ch 11 Debtor, 11 East 36th, LLC
13-11507, Ch 11 Debtor, Morgan Lofts, LLC (Jointly Administered)

Dear Judge Peck,

Our office represents 11 East 36th, LLC and Morgan Lofts, LLC in the above-referenced matter.

As your Honor may recall a conditional stay relief motion was entered on November 6, 2013. A copy is annexed as Exhibit "A".

The Order directed the filing of a 363 motion to be noticed for approval by the court on or before January 8, 2014. This has been accomplished.

The Order further directed in the last paragraph…." in the event that within 20 days after entry of this Order, the Debtors are able to satisfy the New York Attorney General concerning its ability to sell or refinance the Property in the ordinary course of business and is able to obtain the consent of 11 East 36th Street Condominium Association, then the Debtors shall be entitled to withdraw the Sale Motion and to propose a resolution of these cases pursuant to a plan of reorganization to be filed no later than 30 days after entry of this Order."

The Debtor has received the annexed letter from the New York Attorney General which is annexed as Exhibit "B". The Debtor respectfully submits that this letter satisfies the conditional Order requirement that "the New York Attorney General concerning its ability to sell or refinance the Property in the Ordinary course of business"

The Debtor was only advised late in the day on Tuesday November 6, 2013 that the 11 East 36th Street Condominium Association opposed any plan of the Debtor.

The Debtor respectfully submits that this bad faith response by the condominium association made it impossible to comply with your Honor's conditional Order.

The Debtor respectfully requests a conference with the court this week. The Debtor should be allowed to move forward with a plan in this case.

Respectfully submitted,

Lawrence Morrison, Esq.
lmorrison@m-t-law.com

LFM
Cc: Mark Frankel Esq via email
Josh Losardo Esq. via email
Andrew Velez-Rivera via email
Kevin Nash Esq. Via email

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

---x

In re

11 East 36 LLC et al.

Debtor.

---x

Chapter 11

Case no. 13-11506-7

CONDITIONAL ORDER

Upon the Application of 11 East 36 Note Buyer LLC and Griffin V LLC (the "Mortgagees") for an order determining that each of the chapter 11 cases of 11 East 36th LLC and Morgan Lofts LLC (the "Debtors") is a single asset real estate case, and lifting the automatic stay to permit the Mortgagees to pursue their remedies under New York law with respect to those certain residential condominium units known as units701, 801, 803, 804, 903, 904, 1003, 1004, 1103, 1104, 201, 202, 203, 204, 205, 206, 306, 406, 606, 1206, CSI-CS35 and the 2.8% interest in the commercial units 101 and 102 and units 1001, 1006, 1101, 1203, 1204 (collectively the "Property") at 11 East 36th Street, New York, New York, and upon the hearings held before this Court on October 22 and 29, 2013, and upon the entire record of this case, and after due deliberation and sufficient cause appearing therefor, it is

ORDERED, that on or before November 12, 2013, the Debtors shall file a motion seeking to sell the Property (the "Sale Motion") under section 363 of the Bankruptcy Code, and that the Sale Motion shall be noticed for approval by the Court on or before January 8, 2014; and it is further

ORDERED, that in the event that the Debtors do not file the Sale Motion as required by the preceding paragraph, then the Mortgagee shall be entitled to file an affidavit asserting such default, and to settle an order substantially in the form annexed hereto (the "Lift

Stay Order") by hand or overnight delivery upon Debtors' bankruptcy counsel on three days' notice, and it is further

ORDERED, that the Debtors shall not be entitled to assert any objection to the entry of the Lift Stay Order pursuant to the preceding paragraph except to assert that the Debtors timely complied with its obligation to file the Sale Motion; and it is further

ORDERED, that notwithstanding anything to the contrary in this Order, in the event that within twenty days after entry of this Order, the Debtors are able to satisfy the New York Attorney General concerning its ability to sell or refinance the Property in the ordinary course of its business and is able to obtain the consent of 11 E 36th Street Condominium Association, then the Debtors shall be entitled to withdraw the Sale Motion and to propose a resolution of these cases pursuant to a proposed plan of reorganization to be filed no later than 30 days after entry of this order.

Dated: New York, New York
November 6, 2013

/s/ James M. Peck

Honorable James M. Peck
United States Bankruptcy Judge

EXHIBIT B

11/14/2013 08:40 FAX 001/001

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
REAL ESTATE FINANCE BUREAU

November 14, 2013

David Berkey, Esq.
Gallet Dreyer & Berkey LLP
845 Third Avenue; 8th floor
New York, New York 10022

Dear Mr. Berkey:

You have requested a letter advising you whether or not a sponsor or holder of unsold shares has to file an update amendment to an offering plan as a condition of financing or refinancing its unsold shares.

Pursuant to our phone conversation, it appears that a bankruptcy petition has been filed in this instance. It is not necessary for the sponsor to file an amendment at this time as long as there are no purchasers in contract and the sponsor is not engaged in any sales activity. You have represented to me that this is the case. However, if sponsor emerges from bankruptcy, an update amendment must be filed prior to commencement of any sales activity

Very truly yours,

Marissa Piesman
Special Counsel
Real Estate Finance Bureau

EXHIBIT F

BBWG

Belkin Burden Wenig & Goldman, LLP

ATTORNEYS AT LAW

270 Madison Avenue
New York, NY 10016
Tel 212. 867. 4466
Fax 212. 297. 1859

495 Post Road East
Westport, CT 06880
Tel 203. 227. 1534
Fax 203. 227. 6044

www.bbwg.com

December 4, 2013

Via ECF
And U.S. Express Mail

Judge James M. Peck
United States Bankruptcy Court of the
Southern District of New York
Alexander Hamilton Customs House
One Bowling Green
New York, New York 10004-1408

RE: 11 East 36th, LLC, 13-11506
Morgan Lofts, LLC, 13-11507

Dear Judge Peck:

This firm represents the Board of Managers of the Morgan Lofts Condominium on behalf of all of its Unit Owners ("Board of Managers"), a creditor in the above-referenced bankruptcy proceeding. I am writing in response to the above referenced debtors' attorney's letter, dated December 2, 2013, which alleges that a purported "bad faith response by the condominium association made it impossible to comply with your Honor's Conditional Order" dated November 6, 2013. In response, please be advised of the following:

- On Monday, November 25, 2013, debtors' counsel telephoned the undersigned seeking the cooperation of the Board of Managers for the debtors to submit a reorganization plan with the Court that would involve a refinancing of the debtors' units rather than a sale of those units. The proposal was vague and unsubstantiated. Debtors' counsel merely alleged that the Board of Managers' arrears would be satisfied in exchange for its cooperation with the debtors' plan.

- On November 25, 2013, the undersigned notified the Board of Managers about the debtors' request. By late afternoon on such date, the Board of Managers conveyed that it would not consent to any reorganization plan submitted by the debtors.

- On November 25, 2013, at 5:54 P.M., the undersigned emailed debtors' counsel that the "Board of Managers is unwilling to consent to any plan proposed by the debtor." A copy of the November 25, 2013 email is attached to this letter.

Being new to this matter, debtors' attorney, Lawrence Morrison, Esq., has not attended the many hearings in the related Bay Condos case and in these cases, at which time the Board of Managers joined in the comments of 11 East 36 Note Buyer LLC and Griffon V LLC (the

"Mortgagees") regarding the Bobker family's conduct, and the hardships they have created for the homeowners who bought apartments in the condominium building.

To begin with, Mr. Morrison may not appreciate that the debtors' default in the payment of common charges and taxes has caused the Board of Managers to struggle with building maintenance issues. That impairs the quality of life of every resident on a daily basis. And just as bad, homeowners who bought apartments from the debtors, and now want to move or refinance, are ineligible for conventional financing or market-priced sales due to the mess the Bobkers made of the Condominium finances.

The Board of Managers has long suspected that the Bobkers were pocketing subtenant rents while defaulting on common charges. The Bobkers, however, continue to conceal the debtors' financial records that would show the rents the debtors were collecting from their subtenants during the period of nonpayment and where that money went. This, notwithstanding subpoenas issued by the Mortgagees in these cases to both the debtors and numerous Bobker family entities and individuals.

Some time ago, due to the debtors' apparent misconduct as sponsor of the Condominium, upon the Condominium's complaint, the New York Attorney General effectively made it impossible for the debtors to sell residential Units to potential owner-occupants. It is unlikely that the Attorney General's office will ever allow such sales by the Bobkers. Nor should they.

The complaints the Board of Managers made to the Attorney General included the following: (a) failure to pay common charges on units the debtors as sponsors are leasing to subtenants, (b) failure to pay common charges on un-built units that the debtors as sponsors promised to build and thus included in the offering plan, and (c) failure to build units that the sponsors promised in the offering plan to build (d) use of the basement space as rent-free Bobker family offices.

Without sales of units to owner occupants under a New York State approved condominium plan, the debtors cannot even begin to satisfy their obligations to the Mortgagees and the Board of Managers because, even if the debtors were willing to pay common charges, the units generate insufficient cash flow as rental units.

Against this background, the debtors' letter to the Court indicating that the Attorney General does not intend to obstruct refinancing the debtors' units is no comfort. In the first place, it is unclear whether the Attorney General even has jurisdiction to obstruct refinancing. More importantly, the Attorney General specifically did **not** indicate that it would permit the Bobkers to resume retail sales. And again, without such sales, the debtors still won't be able to pay debt service and common charges.

Given the economics of the situation, not to mention the debtors' continuing provocation by squatting rent-free in the Condominium basement with numerous other Bobker family entities, the Board of Managers has worked with the Mortgagees to effectuate a sale of the debtors' units. Thus, the Board of Managers was delighted to see the debtors' sale motion. With some modifications to ensure a fair sale, the Board of Managers supports the debtors' motion.

It was a huge disappointment, therefore, to subsequently receive a call from debtors' counsel indicating that the Bobkers now want to refinance the units instead of selling them. As noted above, the Board of Managers has very good reasons to oppose any resolution that does not involve a sale of units and a transfer of the Bobker family's interest in the building. That is the best and probably only way to stabilize the condominium's finances, and by extension, the best way to give the homeowners who bought apartments from the debtors, the full benefits of home ownership.

For all these reasons, it should be evident that the Board of Managers has not acted in bad faith as alleged in the debtors' attorney's December 2, 2013 letter.

The Board of Managers fully supports the Mortgagees' Joint Plan of Reorganization and Joint Disclosure Statement, which was filed with the Court on December 3, 2013. A hearing is scheduled on the Joint Plan of Reorganization and Joint Disclosure Statement on January 7, 2014.

Accordingly, it is respectfully requested that the Court not schedule a conference as requested by the debtors at this time.

Thank you for your kind attention.

Very truly yours,

Joshua G. Losardo

Enclosure

13-11506-jmp Doc 63-1 Filed 12/04/13 Entered 12/04/13 18:56:35 Exhibit A -
Copy of Email Pg 1 of 1

Joshua Losardo

From: Joshua Losardo
Sent: Monday, November 25, 2013 5:54 PM
To: lmorrison@m-t-law.com
Subject: 11 East 36

Larry – I spoke with the Board after our conversation today, and can convey at this time that the Board of Managers is unwilling to consent to any plan proposed by the debtor.
I will be back from vacation next Wednesday. Have a happy Thanksgiving holiday,

Josh

Joshua G. Losardo
Belkin Burden Wenig & Goldman, LLP
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New York, New York 10016
www.bbwg.com
Tel: (212) 867-4466 x337
Fax: (212) 867-0709
Fax: (212) 297-1859